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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/034,208

12/28/2001

Timothy A. Limon

ACS 59115

7764

24201

7590

01/20/2006

FULWIDER PATTON

6060 CENTER DRIVE

10TH FLOOR

LOS ANGELES, CA 90045

EXAMINER

HO, UYEN T

ART UNIT

PAPER NUMBER

3731

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/034,208

Applicant(s)

LIMON, TIMOTHY A.

Examiner

(Jackie) Tan-Uyen T. Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19,20,22-48 and 58-91 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19,20,22-48 and 58-91 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 58-69, 74-76, 80-83, 88 are rejected under 35 U.S.C. 102(b) as being anticipated by Limon (6,273,910). Limon discloses a stent with varying strut geometry and a method for delivering the stent to a vulnerable plaque, the stent (fig. 5) comprising: a distal section (14 or just the first 3 rings) proximal section (16 or just the first 3 rings after central section 12),

wherein the metallic surface areas in the distal or proximal section is greater than the metallic surface area of the central (fig. 4),

wherein the central section having fewer struts and curves or less dense than the proximal or distal sections (fig. 4)

wherein the length of the central section is greater than the length of the distal or proximal sections and the length of each of the rings in the central section is greater than the length of a ring of the distal or proximal sections.

In regard to claim 63, the distal section (14) has different strut pattern than the proximal (16)

In regard to claim 64, the distal section (the first 3 rings) has the same strut pattern with the proximal section (the first 3 rings after the central section 12).

Wherein the stent is made from stainless steel and coated with biocompatible material.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 19, 20, 22-48, 70-73, 77-80, 84-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over Limon (6,273,910).

Regarding claim 19 and the stent comprising cover and drug coating, Limon disclose a stent for maintain the patency of a body lumen. Although, Limon '910 does not disclose the step of aligning the stent or the central section of the stent with an area of vulnerable plaque as well as the stent having cover/graft and drug as claimed, it is well known in the art to cover a stent with a graft and/or coated with drug as claimed for maintain the patency of a body lumen having a vulnerable plaque and positioning the stent aligned with the vulnerable plaque such that the stent-graft would cover plaque and the vulnerable plaque portion being treated with drug while the stent-graft support

to maintain the patency of the body lumen. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ Limon's stent with cover/graft and drug as well as to position the Limon's stent with cover/graft along a treated vulnerable plaque region in order to enhance the treatment and support the body lumen having vulnerable plaque.

Regarding to claims with undulating link, it is well known in the art to have undulating links between cylindrical rings of a stent in order to provide the stent with more flexibility. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute Limon's links with undulating links in order to have a stent with more flexibility.

Regarding to the materials of the stent as claimed, the materials as claimed are well known for making stent. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the material of Limon's stent with the materials as claimed. Doing so would amount to mere substitution of one material for another within the same art that would perform equally well with Limon's stent.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to (Jackie) Tan-Uyen T. Ho whose telephone number is 571-272-4696. The examiner can normally be reached on MULTIFLEX Mon. to Sat..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ANHTUAN NGUYEN can be reached on 571-272-4963. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



(Jackie) Tan-Uyen T. Ho  
Patent Examiner  
Art Unit 3731

January 17, 2006